

File. 08-CV-603 (DWF/AJB)

Plaintiff,

V.

CMI of Kentucky, Inc.,
a Kentucky corporation,

Defendant.

**AFFIDAVIT OF WILLIAM A.
MCNAB IN SUPPORT OF JOINT
MOTION FOR ENTRY OF
CONSENT JUDGMENT AND
PERMANENT INJUNCTION**

STATE OF MINNESOTA)
) ss:
COUNTY OF HENNEPIN)

William A. McNab, having been duly sworn upon oath, states as follows:

1. I am an attorney duly licensed to practice law in the State of Minnesota and admitted to practice before this Honorable Court. I am a shareholder with the law firm of Winthrop & Weinstine, P.A., 225 South Sixth Street, Suite 3500, Minneapolis, Minnesota 55402, and represent the Defendant in the above-captioned matter. I respectfully submit this affidavit upon personal knowledge.

2. A true and correct copy of the Commissioner of Public Safety's Memorandum Opposing Motion for Additional Discovery filed in *Derheim v. Commissioner of Public Safety*, No. 66-CV-07-3323, Ramsey County, Minnesota District Court, is attached hereto as Exhibit A.

3. A true and correct copy of the Commissioner of Public Safety's Memorandum Opposing Motion for Additional Discovery filed in *Zulpo v. Commissioner of Public Safety*, No. 70-CV-08-5244, Scott County, Minnesota District Court, is attached hereto as Exhibit B.

4. A true and correct copy of the November 16, 2007 Affidavit, which, on information and belief was executed by Glenn G. Hardin, former Toxicology Supervisor For the Minnesota Bureau of Criminal Apprehension, and filed in an unknown number of Minnesota State District Court cases is attached hereto as Exhibit C.

5. A true and correct copy of the unreported decision in *Benefit Res., Inc. v. Apprize Tech. Solutions, Inc.*, 2008 WL 2080977 (D. Minn. May 15, 2008) is attached hereto as Exhibit D.

6. A true and correct copy of the unreported decision in *I-Sys., Inc. v. Softwares, Inc.*, 2004 WL 742082 (D. Minn. Mar. 29, 2004) is attached hereto as Exhibit E.

7. A true and correct copy of the unreported decision in *JustMed, Inc. v. Byce*, 2007 WL 2479887 (D. Idaho Aug. 29, 2007) attached hereto as Exhibit F.

8. A true and correct copy of the unreported decision in *Kemp v. Tyson Seafood Group, Inc.*, 2004 WL 741590 (D. Minn. Mar. 30, 2004) is attached hereto as Exhibit G.

9. A true and correct copy of the unreported decision of the Minnesota Court of Appeals in *State v. Underdahl*, Nos. A07-2293, A07-2428 Minn. App. LEXIS 291 (Minn. Ct. App. May 20, 2008) is attached hereto as Exhibit H.

10. A true and correct copy of the unreported decision of the Minnesota Court of Appeals in *State v. Olcott*, No. A06-2340 Minn. App. LEXIS 374 (Minn. Ct. App. April 15, 2008) is attached hereto as Exhibit I.

FURTHER YOUR AFFIANT SAYETH NOT.

s/William A. McNab
William A. McNab

Subscribed and sworn to before me
this 28th day of October, 2008.

s/Deidre Anne Dumond
Notary Public
State of Minnesota
My Commission Expires January 31, 2013

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